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Supporting **Transition** Professionals

Ensuring that Work-based Learning Aligns with the Fair Labor Standards Act Training Agreement

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Why Career Development & Vocational Experiences in School?

BAD News:

- 28% of working-age adults with disabilities reported fulltime employment vs. 70% of people w/o disabilities (Bureau of Labor Statistics, 2009)
- 3 times as many people with disabilities live in poverty (< \$15,000) 26% vs. 9% (National Organization on Disability, 2004)
- Only 26% of workers with DD are working in community employment, with majority still in sheltered and non-work settings (Metzel, et al., 2007)
- Few high schools are offering work-based experiences (26% vs. 74% classroom-based learning) (Guy, et al., 2009)

GOOD News:

- Employment training leading to better post-school outcomes (Test, Fowler, et al., 2009)
- Predictors of employment include: career awareness, paid employment or work experience, occupational courses, vocational education, work study programs (Test, Mazzotti, et al., 2009)



What is Work-based Learning?

- Work-based learning is a **supervised program sponsored by an education or training organization** that links knowledge gained at the worksite with a planned program of study.
- **Experiences range in intensity, structure and scope** and include activities as diverse as site visits, job shadowing, paid and unpaid internships, structured on-the-job training, and the more formal work status as apprentice or employee.
- Work-based learning helps youth to:
 - Gain basic workplace skills (including teamwork, communication, problem solving; customer service and social etiquette skills);
 - Knowledge of specific occupational skills; and,
 - An understanding of different industries in order to make informed career choices.

From: *National Collaborative on Work-based Learning-Youth with Disabilities*
<http://www.ncwd-youth.info/work-based-learning>

Workplace Know-How Skills

- Networking
- Enthusiasm
- Professionalism
- Communication Skills
- Teamwork
- Problem-Solving & Critical Thinking



Office of Disability Policy, 2007

<http://www.dol.gov/odep/pubs/fact/softskills.htm>



Why School-sponsored Work Experiences are Important:

For All Students:

- Improve student motivation
- Improve pace and complexity of learning
- Increased relevance of learning to applied settings
- Access to role models and mentors
- Improve career awareness
- Critical income to students
- Offers employers contact with potential long-term employees

For Students with Disabilities:

- More successful post-school outcomes
 - 62% have jobs vs. 45%
- Inclusion seems to pay off as well:
 - Students with disabilities that are fully included and have developed strong peer networks are more likely to be employed

Hagner & Vander Sande (1998)

The FOUR “F”s:

- Food
- Filth
- Flowers
- Folding

And
SHREDDING!



Maryland Coalition on Inclusive Education(August 2009). *Redefining What is Functional in High School*. MCIE High School Inclusion and Transition Planning Institute

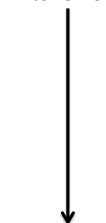
Just Being on a Job Isn't Enough....

- Direct, **systematic** work-site/community input: **school-business partnerships**
- **Wide range of work sites** to help youth make informed career choices & **translate** experiences into career self-knowledge
- In-depth **engagement** that is **meaningful & authentic**
- **Age & career stage** appropriate
- Work-site and tasks/experiences are **linked to in-school academic development and learning**
- back to **school-based learning**.
- A work-place **mentor** provides support and guidance
- Assessment and **feedback**
- Youth **are fully involved** in choosing and structuring their experiences
- **Outcomes** are clear and measurable

From: http://www.wested.org/online_pubs/workbasedlearning.pdf & <http://www.ncwd-youth.info/work-based-learning>

School-sponsored Work Experiences

Less Intensive



More Intensive

- Field Trips
- Employer Presentations
- Course Projects
- Mentorships
- Job Club
- Job Shadow
- Exploration & Assessment
- Job Training
- Work-Study Programs
- Internships (paid/unpaid)
- Apprenticeships
- Paid Employment
 - Customized
 - Supported
 - Integrated

Fair Labor Standards Act Training Agreement of 1992

What is Work-Based Learning (WBL)?

- Delivers career and technical education & training to students with disabilities in workplace settings rather than typical school settings.
- Students 14 yrs. or older engage in nonpaid
 - Career exploration
 - Career assessment
 - Work-related training experiences
- To identify career interests, assess employment skills and training needs, and develop skills & attitudes necessary for paid employment
- After such instruction, students engage in paid cooperative work experience

From: NCSET Essential Tools (2005).
http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

Handbook for Implementing a Comprehensive Work-based Learning Program According to the Fair Labor Standards Act (2005). NCSET Essential Tools.
http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

ESSENTIAL TOOLS

Improving Secondary Education and Transition for Youth With Disabilities

Handbook for Implementing a Comprehensive Work-Based Learning Program According to the Fair Labor Standards Act

Third Edition



The College of Education & Human Development
 UNIVERSITY OF MINNESOTA



Four Components of CBVE

1. Career Exploration
2. Career Assessment
3. Work-Related Training
4. Cooperative Vocational Education



Handbook for Implementing a Comprehensive Work-based Learning Program According to the Fair Labor Standards Act (2005). NCSET Essential Tools.
http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

U.S. DOL and DOE Statement of Principle

The U.S. Departments of Labor and Education are **committed to the continued development and implementation of individual education programs**, in accordance with the Individuals with Disabilities Education Act (IDEA), that will **facilitate the transition of students with disabilities from school to employment within their communities**.

This transition must take place **under conditions that will not jeopardize the protections afforded by the Fair Labor Standards Act** to program participants, employees, employers, or programs providing rehabilitation services to individuals with disabilities.

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

Policy Guidelines for WBL Experiences

When schools and employers engaging in these WBL activities with youth with disabilities adhere to all of the following guidelines, they do not violate the provisions of the FLSA:

1. Participants will be youth with physical and/or mental disabilities for **whom competitive employment** at or above the minimum wage level is **not immediately obtainable** and who, because of their disability, will need **intensive ongoing support** to perform in a work setting.
2. Participation will be for career exploration, career assessment, or work-related training at a worksite placement under the general **supervision of public school personnel**.
3. Worksite placements will be clearly defined components of **Individualized Education Programs (IEPs)** developed and designed for the benefit of each student. The statement of needed transition services established for the exploration, assessment, training, or cooperative work experience components will be included in the student's IEP

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

Guidelines continued....

4. Information contained in a student's IEP will not have to be made available; however, **documentation as to the student's enrollment in the work-based learning program** will be made available to the Departments of Labor and Education. The student and his or her parent(s) or guardian(s) must be **fully informed of the IEP** and the career exploration, career assessment, or work-related training components and have **indicated voluntary participation** with the understanding that participation in these components **does not entitle the student participant to wages or other compensation** for duties performed at the worksite placement.

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

WBL Guidelines continued...

5. The activities of the student at the worksite **do not result in an immediate advantage to the business**. The Department of Labor looks at the following factors to determine if this guideline is being met:
 - a. There has been no **displacement of employees, vacant positions** have not been filled, employees have not been relieved of assigned duties, and the students are not performing services that, although not ordinarily performed by employees, clearly are of benefit to the business.
 - b. The students are **under continued and direct supervision** by either representatives of the school or by employees of the business. The student receives ongoing instruction and close supervision at the worksite during the entire experience, **resulting in any tasks the student performs being offset by the burden to the employer of providing ongoing training and supervision**.
 - c. Such placements are made **according to the requirements of the student's IEP** and not to meet the labor needs of the business.
 - d. The **periods of time spent by the students** at any one site or in any clearly **distinguishable job classification are specifically limited by the IEP**.

And 2 more Guidelines...

6. While the existence of an employment relationship will not be determined exclusively on the basis of number of hours, as a general rule, **each component will not exceed the following limitation** during any one school year:
 - Career Exploration 5 hours per job experienced
 - Career Assessment 90 hours per job experienced
 - Work-related Training 120 hours per job experienced
7. Students are **not automatically entitled to employment** at the business at the conclusion of their IEP. However, **once a student has become an employee, the student cannot be considered a trainee** at that particular worksite placement unless in a clearly different occupation.

Schools and participating businesses are responsible for ensuring that all seven of these guidelines are met. If any of these guidelines are not met, an employment relationship exists, and participating businesses can be held responsible for full compliance with the FLSA.

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

WBL Policy Guidelines

Let's take a moment to untwist our brain....



Participation Requirements

6 Questions & Answers...

1. Which students may participate in work-based learning (WBL) programs under the policy guidelines for nonpaid, non-employment relationships?
2. How is it determined which students might need to participate in a WBL program?
3. Does the term "physical and mental disabilities" mean that students with learning disabilities are excluded?
4. The policy guidelines indicate that nonpaid, non-employment work-related training is for individuals for whom employment is "not immediately obtainable." What does this mean?
5. The guidelines also indicate that work-related training is intended for students who will need "intensive ongoing support" to perform in a work setting. Does this mean that it is intended for students with more severe disabilities?
6. What vocational options should be available to students who do not need intensive ongoing support?

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

Documentation Required for WBL

Three types of documentation must be used to meet the requirements of these guidelines:

1. An IEP reflecting **instruction and training goals** and objectives relevant to the work-related training experience;
2. A written **individual training agreement** outlining the U.S. Departments of Labor and Education requirements listed above and signed by all participants along with attached individual training plan; and
3. **Records of student experience** (i.e., log of hours spent in WBL activities, progress reports, observation reports, safety training, and performance evaluations).

It is important that WBL programs document that all participants (student, parent/guardian, employer, and instructional staff, understand that:

- If at any point the WBL activity is no longer a learning experience and the 7 criteria for a nonpaid/volunteer WBL experience cannot be met, the activity is **not a non-employment relationship**;
- Students are **not entitled to wages or other compensation** for the time spent in the learning experience; and
- Students are **not automatically entitled to employment** at the worksite at the completion of the WBL experience.

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

Career Exploration


Wanda's IEP Transition Goals and Objectives

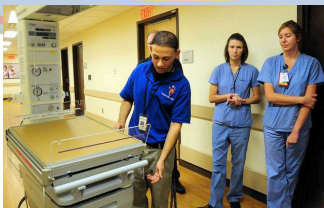
Goals:

- I will explore a variety of career opportunities in school and the community by watching work being done, talking with employees, and trying out work under my teacher's supervision.
- I will participate in my IEP meetings and express preferences based on my career exploration experiences.

Objectives:

- I will talk appropriately with workers and supervisors.
- I will ask questions about the work in each career exploration site.
- I will express my feelings and preferences about each situation with my special education teacher and parents.
- I will keep a log of each experience and discuss each one with my special education teacher and parents.





Career Assessment

Mike's IEP Transition Goal and Objectives

Goal:

- I will perform a variety of cleaning tasks in businesses and private homes in the community, two hours per day, three days per week during this school year.

Objectives:

- I will talk appropriately with my supervisor and coworkers, as observed by my supervisor and teacher.
- I will follow spoken and written directions, as observed by my supervisor and teacher.
- I will perform a variety of cleaning tasks, such as vacuuming, washing windows, cleaning restrooms, dusting, and emptying trash, to be observed by my supervisor and teacher.

Work-Based Learning Nonpaid Training Agreement

Student's Name: _____ Date of Birth: _____
 School: _____ Address: _____
 Teacher/Coordinator: _____ City: _____
 School Telephone #: _____ State/Agency Telephone #: _____ Zip code: _____
 Emergency Contact Person & Telephone #: _____ Student's Email: _____

CHECK APPROPRIATE BOXES/SPACES:

☐ Career Exploration
☐ Career Assessment
☐ Work-Related Training

By signing this agreement, all parties understand and agree to the following terms:

- The employer derives no benefit from the activities of the student.
- The student does not displace a regular employee and is closely supervised.
- All parties understand the student is not entitled to receive any wages during the agreement time; and
- All parties understand the student is not entitled to a job at the end of the experience.

Worksite/Supervisor Responsibilities Are To:

- Provide the student with an occupational experience of educational value appropriate to the student's IEP/transition plan.
- Assure the student is closely supervised at the work-based learning site.
- Provide evidence of general liability insurance coverage for visitors, volunteers, and non-paid, work-based learning activities.
- Instruct the student in the competencies identified in the training plan provided and document the student's progress when applicable.
- Conduct progress reviews, when applicable, with the student (which may include the guardian and school personnel) and provide copies of those reviews to the school.
- Not exclude students from participation in the program on the basis of race, color, creed, religion, sex, national origin, age, disability, marital status, status in regard to public assistance or any other protected groups under state, federal, or local Equal Opportunity Laws.
- Support the student in meeting the requirements of the student's IEP/transition plan.
- Participate in progress reviews scheduled with students, students, and student's guardian(s).
- Comply with all federal, state, and local regulations.
- Place students in appropriate work-based learning experience based on tested interests, aptitudes, and abilities and provide appropriate accommodations when required.
- Provide orientation and general safety instruction to the student prior to placement in a non-paid, work-based learning activity.

Parent(s)/Guardian(s) Responsibilities Are To:

- Give permission for participation in the work-based learning activity and support the student in meeting the requirements of the program.
- Participate in any progress reviews scheduled with students, school personnel, and student; and communicate information vital to the success and development of the student.
- Understand their child is not entitled to a job at the end of the activity or to receive any wages during the agreement time.

Student's Responsibilities Are To:

- Follow all rules and guidelines set by the school district and work-based learning placement site.
- Participate in progress reviews scheduled with students, school personnel, and/or parent(s)/guardian(s); and share information of ever or facts relevant to your progress in this program.
- Understand he or she is not entitled to a job at the end of the activity or to receive any wages during the agreement time.

Upon signing this agreement all parties agree to comply with the responsibilities listed above.

Parent(s) or Guardian(s): _____ Date: _____
 Student: _____ Date: _____
 School Representative: _____ Date: _____
 Worksite/Agency Representative: _____ Date: _____

A copy of the student's Individual Training Plan is attached to this agreement.
 Yes _____ No _____ (If no document the reason training plan is not needed.)
 Copies of this agreement should be distributed to the student, parent or guardian, and worksite/agency. The original is to be kept on file at the school district.

- Career Exploration
- Career Assessment
- Work-related Training

Terms:

- Employer derives no benefit
- Student does not displace a regular employee & supervised
- All parties understand no wages
- All parties understand not entitled to job

- Worksite/supervisor Responsibilities
- School responsibilities
- Parent/guardian responsibilities
- Student responsibilities

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

Difference between an educational vs. employment relationship

Employment relationship:

- Student is providing a service that is of immediate benefit to the employer.
- Student may be completing tasks that are normally performed by employees.
- As a result of student work, vacant paid position may remain unfilled or regular employees are displaced or relieved of duties

Educational relationship:

- Student engages in work activities as part of an organized educational program consistent with FLSA guidelines.
- Students should not be performing tasks that a regular employee would perform that are of benefit to the employer.

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

Benefit to Student vs. Benefit to Employer

Benefit to the student means the WBL is a valid educational experience and includes:

- Students receive **adequate orientation and instruction** before performing new tasks
- The student's **goals and objectives** regarding the WBL are clearly defined.
- Activities in the workplace setting **directly relate to student's goals and objectives**.
- The student's activities are **closely monitored and supervised**.
- Records of student's **progress are maintained**
- The **necessary support and time** for students to develop proficiency at new tasks is provided.

Benefit to the employer

- When immediate advantage to having WBL student working on premises
- Increased profitability or production for the business

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

Advice on Instructional Programming

- **Formal Assessments** –not required before placement, however, ascertaining student's preferences and interests is an essential element of WBL placements. Assistive technology and supports should be identified. **Ongoing Assessment** – should be in place throughout WBL
- **WBL components** - not required to implement in order (e.g., exploration, assessment, training) nor include all 3, if not needed. Program should be systematic and logical (e.g., assessment comes first)
- **IEP Goals... how specific?** Work setting placement is not required (don't reconvene); general goals related to career exploration, assessment, training should be included. IEP must include time limits aligned with guidelines.
- **Individual training plan/agreements** – with employers, parents, students should be specific about exact location of WBL and specific nature of education & training

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

IEP Goals & Training Objectives: Work-related Training

Jason's Transition Goal and Objectives

Goal:

- I will receive work-related training at three worksites in the community.

Objectives:

I will:

- Use a time clock correctly to begin and end work, as observed by my job coach and supervisor.
- Arrive at work on time and follow a break schedule, as observed by my job coach and supervisor.
- Talk correctly with supervisors and coworkers.
- Participate in my work evaluations, adding positive and negative comments and accepting constructive comments.
- Read work information and follow directions, as observed by my job coach and supervisor.

Open-ended locations

- Specific "transferrable" skills
- Annual IEP objectives
- Use these objectives/skills to develop the detailed training plan & Collect data



Individual Work-Related Training Plan for Marilyn Busch (Attach plan to Individual Training Agreement)

Student's Name: Marilyn Busch
 Worksite/Agency: Brentwood Inn
 Teacher/Coordinator: Lorraine Stuenkel
 Job Coach: Karin Biedy

As part of Marilyn's work-based learning experiences, she will participate in nonpaid, work-related training for three hours per day, three days per week that will not exceed 120 total hours.

The following will be assessed during this work-based learning experience as identified in Marilyn Busch's IEP/transition goals and objectives:

Marilyn will:

- Sort & fold laundry:
 - Increasing her work rate to 75% of the rate of hotel employees*; and
 - Transition from required supervision by a job coach to supervision by the laundry supervisor.
- Learn to:
 - Load washers;
 - Add detergent;
 - Unload washers; and
 - Place items in a dryer.
- Learn to:
 - Converse with other employees;
 - Use the snack machine; and
 - Use the restroom during break time.

Anecdotal records will be kept during the initial break periods. When it is determined that Marilyn's "break behavior" is appropriate, her job coach or paraprofessional will withdraw, and Marilyn will take breaks with her "buddy" and/or other hotel employees. Marilyn's job coach will continue to collect data on an intermittent basis and review Marilyn's behavior in the weekly meetings.

*New training activities will be initiated once the 75% work rate has been achieved.

Location specified

All critical stakeholders included

Time in Training specified

Specific skills, criterion identified & Data will be collected

Parent Notification of Career Exploration Sites

Leesburg County Public Schools
 10 Main Street
 Leesburg, MD 20000
 (308) 888-9999

October 10, 2004

Mr. and Mrs. Fred Adams
 Route 222
 Leesburg, MD 20000

Dear Mr. and Mrs. Adams:

Following our discussions and the development of the transition component of Wanda's IEP, the following career exploration sites have been identified:

- School cafeteria: 3 one-hour observations
- School library: 3 one-hour observations
- Leesburg Animal Clinic: 5 one-hour observations
- Leesburg High School Day Care Center: 3 one-hour observations
- Leesburg High School graphic arts class: 2 one-hour observations

The purpose of the worksite activities is to allow Wanda to experience a variety of work situations and settings. Each career exploration site is limited to no more than five hours per worksite. Wanda will be under the supervision of school staff (either a teacher or a paraprofessional on all job sites).

Enclosed is a Work-Based Learning Nonpaid Training Agreement, which includes participation in career exploration activities. Please read it and, if you agree, sign and return to the school.

Sincerely,
 Brian Goodman, Special Education Teacher
 Lincoln Middle School

Locations specified

What's the rule about Time??

Supervision is specified

WBL Nonpaid Training Agreement

Work Experience Evaluation

Student: _____ Firm: _____
 School: _____ Telephone: _____
 Teacher: _____ Address: _____
 School Phone: _____ Supervisor: _____
 Date of Initial Employment: _____ Hrs. per week: _____

3 - Above Average (You perform your job better or exhibit better work behavior than most co-workers.)
 4 - Average (You perform this job/task or exhibit good work behavior independently, no reminders.)
 3 - Occasional Supervisor (You perform this job or exhibit this behavior with few reminders.)
 2 - Frequent Supervisor (You need frequent reminders concerning your job or your work behavior.)
 1 - Constant Supervisor (You do this task/job only with constant reminders concerning your job and/or work behavior.)

	M	Tu	W	Th	F	Comments
PERSONAL APPEARANCE -						
1. Clothes/hygiene appropriate for job site						
2. COMMUNICATION - Communicates clearly and appropriately						
3. MOTIVATION -						
4. Willingness to work/positive attitude						
5. ENDURANCE -						
6. Works well for long periods of time						
7. QUALITY - Meets job requirements; recognizes and corrects errors						
8. RATE OF WORK - Maintains, completes job at a steady pace						
9. ATTENDANCE - Attends daily or calls in, on time to work/breaks						
10. PUNCTUALITY -						
11. On time						
12. SELF CONTROL - Reaction to frustration/attention to task						
13. SAFETY - Observes rules, efficiently handles equipment and materials						
14. INDEPENDENT WORK - Initiates work, able to problem solve/make decisions, follow work routine						
15. FLEXIBILITY -						
16. Ability to learn or change jobs						
17. SUPERVISION - Accepts direction and criticism appropriately						
18. CO-WORKERS - Cooperates, helps to achieve goals						

Goal Statement for maintenance or improvement: _____ Total points: _____
 Points from prev. eval. _____

Employer Signature: _____ Date: _____
 Student Signature: _____ Date: _____
 Teacher/Job Coach Signature: _____ Date: _____
 Parent Signature: _____ Date: _____

MCH/MSH/MSH

Informational Interview

- (1) What do you look for in an employee?
- (2) What makes your business successful?
- (3) What do you do to please a dissatisfied customer?
- (4) What are some of the tasks that need to get done but you never seem to have enough time to do?
- (5) What are some of the high volume tasks?
- (6) What are some of the simple, routine, time consuming tasks?
- (7) How do you identify and/or respond to the interests of the community in order to attract and retain customers?

Information Interview used by Students when Completing a Career Exploration

Students ask Employers/ Business Owners these Questions

Lawrence High School
Exit Interview Form

Date Completed: _____
 Prepared by: _____

Job History for _____

Employer: _____ Supervisor: _____ Phone #: () _____
 Address: _____ City: _____ State: _____ Zip: _____
 Job Title: _____ Beginning/Ending Date: _____
 Job Duties: _____
 Non-paid/Paid: If paid, wage: _____ Beginning: _____ End: _____
 Reason left position: _____ Recommendations (additional supports needed; additional training needs; areas of interest; etc.)

Likes: _____

Dislikes: _____ Other pertinent information/attachments (employer evaluation(s); letter(s) of recommendation; etc.)

Work issues: _____ Comments: _____
 Student: _____

Family Member(s): _____

Supports used: _____ Employer: _____

More loose ends... Instructional Programming

- **When do you need to move students?** If a student has received the **maximum number of hours** in an unpaid training site (e.g., 215 hours) then you need to move them to a new site. **However, they can continue to work on similar work tasks** (e.g., clerical supports at bank then office)
- **Volunteering, is it allowed?** Yes, but only in public agency locations (e.g., non-profits, government agencies, hospitals, nursing homes). Commercial business may not have unpaid volunteers. The student must choose to volunteer!
- **Receiving academic credits for WBL** – receiving academic credit for occupational and work-related skills in a WBL is up to SEA and LEA. Often credit is contingent upon a concurrent classroom instruction and in most districts, is consistent with policies for CTE programs.

From: NCSET Essential Tools (2005), http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

What about Liability?

WBL is considered part of the IEP

- In nonpaid, non-employment relationships, the worksite is perceived as an extension of the school.
- The student is pursuing instructional objectives in a work setting
- Students are not employees & are not eligible for the usual workers' compensation or insurance coverage provided to employees.
- If the student's participation is considered instructional and part of a nonemployment relationships, then the school may be responsible for liability coverage. Generally this is the same insurance and liability policies that apply to other off-site school experiences (e.g., athletic events, field trips). Each district works out their own policies regarding liability.

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

What about Program Supervision?

1. What is meant by the term “under the general supervision of public school personnel?”
2. How should educators document the general supervision criteria?
3. What are the implications of the “continued and direct supervision” requirements for educators & employers?
4. Is it necessary for someone to monitor the student at all times?
5. What educational qualifications and/or certifications must educational staff have in order to provide supervision in WBL programs as the education agency's representative?

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

Other Important Questions...

1. What is the educator's role in assuring that regular employees will not be displaced by the student trainee in the workplace?
2. If the activity is ordinarily not performed by employees and yet is beneficial to the business, can the student perform the activity?
3. Can students accept an offer of paid employment at a worksite where they were placed for work-related training?
4. Could the student be paid less than the minimum wage?

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

Reporting to DOL/DOE?

- Reports to the U.S. Department of Labor or the U.S. Department of Education **are not necessary**.
- **Adequate records documenting your program's compliance** with the guidelines for WBL activities, particularly nonpaid, work-related training and paid community work experience, must be maintained. In the event of a Department of Labor investigation of your program, this information must be made available to the Department of Labor.
- **You can share information from the WBL program with other agencies as long as confidentiality** procedures are followed. In fact, rehabilitation services counselors may be actively involved in the process of WBL through consultation or funding.
- Work-based learning programs should adhere to procedures typically followed regarding confidential information. (in section 300.560-300.577 of the IDEA regulations)

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

Can an Employer Move the Student around Different Work Stations or Jobs?

- Written training agreements & training plans should detail the specific activities of the WBL experience and should be in place prior to placement.
- The WBL is considered to be a valid educational experience under the decision authority of school personnel not employer.
- Employers must be allowed to remove a student from a specific job or site for safety or other reasons.
- However, the student should not then be placed in a different station or job other than the already agreed upon work areas as delineated in the written plan.
- If you need to change the work site or work tasks within a business, then you need to revise the work plan and agreement

From: NCSET Essential Tools (2005). http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

The FLSA and WBL Cooperative Work Experience

- Youth with a disability is paid for work performed in employment setting. An employment relationship exists
- The student is an employee and is entitled to the same wages as nondisabled employees performing the same tasks
- Schools and businesses are subject to all of the provisions of the FLSA, (i.e., minimum wage, overtime pay, record-keeping, and child labor). This is true whether the student is paid by the **business, school, or a third party.**

Youth age 14 and 15: Under the FLSA child labor provisions:

- Students may work in various jobs outside school hours no more than 3 hours on a school day with a limit of 18 hours in a school week
- no more than 8 hours on a non-school day with a limit of 40 hours in a non-school week
- not before 7:00 a.m. or after 7:00 p.m., except from June 1 through Labor Day, when the evening hour is extended to 9:00 p.m.
- Students may not work in jobs declared hazardous by the Secretary of Labor

Coop Work

Youth age 16 and 17: Under the FLSA child labor provisions

- Students may work anytime for unlimited hours in all jobs not declared hazardous by the Secretary of Labor.
- States often have limited hours for students age 16 and 17.
- The school and employer are responsible for knowing and enforcing the hours.
- When state rules are stricter than federal rules, state rules apply.)

Youth age 18 can work in *hazardous* occupations defined as an work that may be detrimental to the health and well being of children under 18, or an occupation that may jeopardize their educational opportunities.

- The rules prohibiting working in hazardous occupations (HO) apply on industry or occupational basis no matter what industry the job is in.
- Parents employing their own children are subject to these same rules.
- Some of these hazardous occupations have definitive exemptions. Youth age 18 and older may be placed in certain hazardous occupations if it is developmentally appropriate for the youth.

Resources

- **National Collaborative on Workforce and Disability – For Youth**
<http://www.ncwd-youth.info/>
- **Work-based Learning Jump Start (NCWD-Y)**
<http://www.ncwd-youth.info/work-based-learning>
- **High School/High Tech (HS/HT) Program Manual**
<http://www.ncwd-youth.info/hsht/program-guide>
- **National Center on Secondary Education and Transition (NCSET)**
<http://www.ncset.org/>
- **Handbook for Implementing a Comprehensive Work-based Learning Program According to the Fair Labor Standards Act (2005).**
http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf
- **Office of Disability Employment Policy (ODEP) Youth Resources**
<http://www.dol.gov/odep/categories/youth/>
 - Guideposts; Soft Skills; Individualized Learning Plans; Inclusion
- **Job Accommodations Network**
<http://askjan.org/>
- **411 on Disability Disclosure**
<http://www.ncwd-youth.info/411-on-disability-disclosure>